

AMERICAN ARBITRATION ASSOCIATION
(Hereafter “AAA”)
Case No: 30 190 00847 06

United States Anti-Doping Agency)
(Hereafter “USADA”))
)
Claimant)
)
and)
)
)
Floyd Landis)
(hereafter the “Athlete”))
)
Respondent)
_____)

PROCEDURAL ORDER NO.1

Recitals

1. An Anti-Doping Panel (hereafter referred to as the “Panel”) has been established for the purpose of determining if there has been a violation of applicable anti-doping rules. The members of the Panel are:

Patrice M. Brunet, Esq. (Chairman)
Barrister & Solicitor,
Montreal, Canada

Prof. Richard H. McLaren, Esq.
Professor, Barrister & Solicitor
London, Canada

Chris Campbell, Esq.
Attorney-at-Law
Alameda, USA

2. The purpose of this procedural order is to further plan the course of the proceedings. A pre-hearing conference call was held at 11 a.m. Eastern Standard Time (“EST”) on 29 January 2007. In attendance were the counsels for the parties.

For the Claimant:

Travis T. Tygart, Esq.; Richard Young, Esq.; and Matthew S. Barnett, Esq.

For the Respondent:

Maurice Suh, Esq.; Howard Jacobs, Esq. and James C. Ho, Esq.

PROCEDURAL DIRECTIONS

Communications

1. The parties have agreed to be bound by the rules of the Accelerated Exchange Program (AEP) of the AAA.
2. For the purposes of this arbitration, communications from the Panel concerning the present proceedings will be sent to the parties' counsels at the following addresses:

For the Claimant:

Travis Tygart, Esq.
United States Anti-Doping Agency
1330 Quail Lake Loop, Suite 260
Colorado Springs, CO 80906
USA
Tel: (719) 785-2000
Fax: (719) 785-2001

Richard Young, Esq. and
Matthew S. Barnett, Esq.
Holmes Roberts & Owen LLP
90 South Cascade Avenue, Suite 1300
Colorado Springs, CO 80903-1615
USA
Tel. : (719) 473-3800
Fax: (719) 633-1518

For the Respondent:

Maurice Suh, Esq.
Gibson, Dunn & Crutcher LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197
USA
Tel.: (213) 229-7260
Fax: (213) 229-6260

Howard L. Jacobs, Esq.
Law offices of Howard L. Jacobs
5210 Lewis Road, Suite 5
Agoura Hills, CA 91301
USA
Tel: (818) 292-8735
Fax : (8181) 292-8736

3. Communications and documents must be sent to each counterpart counsel, to each Panel member individually and to the AAA at:

American Arbitration Association
ATTN: Ms. Carmen Frobos
2200 Century Parkway, Suite 300,
Atlanta, GA 30345,

USA

Tel.: (404) 325-0101

Fax: (404) 325-8034

The Panel will only speak with counsel by conference call including all counsel or on the express written consent of a particular counsel that they are not to be included in any particular oral communication.

4. Documents to be filed by the various deadlines set out herein may be filed by electronic means of fax or email. Should the document be longer than ten (10) pages, complete hard copy documentation is to follow by courier service or other messenger arrangements to all parties and the Panel.
5. Counsels are encouraged to deal directly with each other and are urged to co-operate in this proceeding. Should a party require the Panel's assistance at any time it should contact the AAA and request that a conference call be arranged. The Panel is available to serve the parties as they may require it.

Oral Presentation, Hearing and Hearing Procedure

6. On **January 9th 2007**, an exchange of information conference call was held between the parties and the Panel to briefly discuss preliminary and procedural issues.
7. On **January 29th 2007**, a preliminary hearing conference call was held between the parties and the Panel to discuss preliminary and procedural issues.
8. Should it be required by the Panel, the parties are directed to attend an interlocutory hearing on **February 22nd 2007**. The issues to be argued may include outstanding issues regarding the testing of additional samples of the Athlete, discoveries and the format of the open hearing. Should this interlocutory hearing be necessary, the Panel will confirm the location and time on or before **February 15th 2007**.
9. The hearing on the merits is to commence on **May 14th 2007 in Malibu, California** at Pepperdine University, or at such other location as the Panel may choose. The Panel noted that Claimant was prepared to commence the hearing on March 12th, 2007, however the first available date in the calendar of the other Parties and the Panel was only found in May. The hearing will commence at a time to be announced at a later date. The parties are to reserve the full week of May 14th for the hearing and are placed on notice that any further dates that the Panel may subsequently determine will also constitute the hearing in this proceeding.
10. Should a party wish to present live testimony at the hearing, it shall notify the Panel and all parties of the identity of the proposed witness and shall provide a summary of the testimony to be offered by the proposed witness by means of affidavit to the Panel and the parties under a procedure to be established at a later date following the input of counsel on the subject.

11. Absent a request by the other party for cross-examination of such a witness, or other valid objection, the party wishing to present such testimony may rely solely on the content of the affidavit at the hearing.
12. If there is a request by the opposing party for cross-examination of a witness, the party wishing to present such testimony shall arrange for the witness to be available for live testimony at the hearing, unless the opposing party and the Panel agree to cross-examination by telephone. In any case, it shall always be the prerogative of the party calling a witness to present live *in-person* testimony.

Language

13. The language of this arbitration is English. Documents submitted in any other language than English shall be accompanied by a translation. If such documents are not accompanied by an English translation, the Panel may decline to consider them. Where applicable, an interpreter may be used at the hearing to translate the testimony of parties or witnesses. The party requiring an interpreter shall bear the resulting costs.

Further Testing of Samples

14. The Panel is advised that the Claimant is considering testing further samples of the Athlete in relation to this dispute. Counsels are to make further submissions on this matter after which the Panel will make its determination and any necessary orders. Until the Panel has adjudicated the issue, USADA is enjoined not to engage in any testing of further samples of the Athlete.

Production of Documents

15. The Panel has also been advised that a disagreement has arisen between the parties concerning the discovery of documents. Counsels are to make further submissions on this matter after which the Panel will make its determination and any necessary orders.

Written Aspects of the Proceedings

16. On or before **February 5th 2007, by 5pm EST**, the Respondent shall file its position paper regarding the testing of additional samples.
17. On or before **February 7th 2007, by 5pm EST**, the Claimant shall produce all documents responsive to the Respondent's request for documents dated October 23rd 2006 and January 22nd 2007 or explanations as to why some documents cannot be made available.
18. On or before **February 9th 2007, by 5pm EST**, the Claimant shall file its reply to the Respondent's position paper regarding the testing of additional samples.
19. On or before **February 12th 2007, by 5pm EST**, the Respondent shall file its reply to the detailed explanations provided by the Claimant as to why some documents requested by

the Respondent's requests for documents dated October 23rd 2006 and January 22nd 2007 cannot be made available.

20. On or before **February 9th 2007, by 5pm EST**, the Respondent shall produce a detailed draft order for consideration by the Claimant and the Panel concerning the format surrounding the public hearing and live television coverage of the hearing. Thereafter counsels are requested to attempt to agree upon the draft order. If no agreement is reached, the Claimant on or before **February 16th 2007, by 5pm EST** shall file its comments on the Respondent's detailed draft order concerning the format surrounding the public hearing and live television coverage of the hearing.
21. On or before **February 13th 2007, by 5pm EST**, the Respondent shall file its rebuttal to the Claimant's reply to the Respondent's position paper concerning the testing of additional samples.
22. All documentary evidence upon which the parties intend to rely shall be submitted in conjunction with these respective written submissions.
23. The schedule for the filing of briefs and witness statements shall be determined at a later date by the Panel.

Deliberation and Award

24. The Panel award, together with the grounds thereof, will be issued in writing and served upon the Counsel for the parties by the AAA as soon as practical after the conclusion of the hearing.

Transcripts

25. The hearing on the merits will be recorded by means of stenographic record. The cost of such record is to be split equally amongst the parties, as agreed by them. Such record will be made available to the Panel as soon as it becomes available.

Publicity of the Hearing

26. The Athlete requested a Public Hearing as is his right within the rules. The parties are in agreement that the hearing is to be public. What is not agreed is the scope of the meaning of public hearing. The parties also agree that a Public Hearing includes the right of the media in the form of the written or broadcast press to be present at the hearing. What is not agreed is whether the hearing may be broadcast through live television. The Panel has concluded that a public hearing would also include a live television broadcast of the proceedings, but on terms defined and controlled by the Panel. The Panel therefore orders that the proceedings may be broadcast on terms to be established by the Panel upon further input from counsel as set out in paragraph 20 of this Order.

27. The final arrangements surrounding the organization of the media and live television during the hearing shall be the exclusive prerogative of the Panel. It reserves the right to terminate the live broadcasting should it become intrusive upon the hearing or for any other reason it deems appropriate.
28. From the beginning of the hearing and until the rendering of the decision of the Panel, the parties and their counsels are requested not to engage in any public comment on the hearing or the arbitration procedure.
29. In furtherance of the foregoing decisions, the Panel orders the parties to keep all documents confidential disclosed through the process of document discovery. Documents will only become public as they are filed as exhibits at the arbitration hearing. The process of releasing such exhibits to the media will be covered in the rules to be developed by the draft order as mentioned in paragraph 20. The Panel reserves the right to not release certain exhibits if it is determined that there is good reason to keep them confidential. Such rulings will be made by the Panel at the time of admitting the document as an exhibit at the arbitration following a request to so rule by one of the parties counsel.
30. Any interlocutory hearings before the commencement of the arbitration hearing on 14 May 2007 shall not be open to the public and are excluded from the foregoing orders.

DATED this 2nd DAY of FEBRUARY 2007.

For the Panel

IN _____

(signed) _____
Patrice M. Brunet, Esq.
Chairman

IN _____

(signed) _____
Prof. Richard H. McLaren, C.Arb Esq.

IN _____

(signed) _____
Chris Campbell, Esq.